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Testimony
Before the Subcommittee on Water and Power
Of the Committee on Resources
United States House of Representatives

H.R. 2257
Lower Yellowstone Reclamation Projects Conveyance Act

May 18, 2004

Good morning. My name is Thomas Graves. I am the executive director of the Mid-West Electric Consumers Association. We appreciate the opportunity to testify before the House of Representatives Resources Committee, Subcommittee on Water and Power today on proposed legislation H.R. 2257 to privatize the Lower Yellowstone Irrigation Project (LYIP).

Mid-West was founded in 1958 as the regional coalition of federal firm power customers that purchase federal hydropower in the nine states of the Pick-Sloan Missouri Basin Program (Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wyoming). Representing over three hundred rural electric cooperatives, municipal electric utilities, and public power districts, Mid-West's members serve over three million people in the Missouri River basin.

Privatizing federal reclamation projects is not a new concept. However, in Pick-Sloan, only one federal irrigation project, the Middle Loup in Nebraska, has been privatized. There are a myriad of issues involved with the transfer of federal reclamation projects into private hands. For federal power customers, the transfer of the Middle Loup project embraced three policies critical to the equitable divestiture of federal irrigation assets:

Repayment of remaining federal investment by water and power users at the net present value of those obligations;

Retention of the federal power allocation by the irrigation project; and

Payment of the Pick-Sloan firm power rate by the irrigation district under the same terms and conditions as other federal firm power customers;

Mid-West supported the privatization of the Middle Loup project and successfully worked with the irrigation district to develop and implement the policies (noted above) that the legislation enacted by Congress embraced. Middle Loup now has a power contract with the Western Area Power Administration on the same terms and conditions as other firm power customers in the region.

The legislation before you today does not follow the prototype established by the Middle Loup transfer, and instead sets an unfair precedent for the treatment of power supply for non-federal irrigation projects in the river basin.

Our problems lie in the power supply provisions of the bill, which can be found in section 6 of the proposed legislation. Section 6 deals with the power supply for the irrigation projects after transfer. The terms and conditions proposed for this power supply are unique and troublesome. If the legislation is enacted as proposed, these now non-federal irrigation projects would receive an allocation of Pick-Sloan power but retain benefits afforded only to federal irrigation projects in the Pick-Sloan Missouri Basin Program. What concerns us is not the retention of the irrigation projects' allocation of Pick-Sloan power, but the terms and

conditions of that allocation.

Let me explain.

The Pick-Sloan Missouri Basin Program was established by enactment of the Flood Control Act of 1944, and envisioned multi-purpose development in the Missouri River basin. Under that plan, Pick-Sloan would serve a variety of purposes meant to enhance economic development in the region – flood control, irrigation development, hydropower generation, navigation, and municipal and industrial water supply. Hydropower generation was looked upon as the cash register to finance many of these investments. Pick-Sloan firm power customers are responsible for repaying through power rates the federal investment, with interest, in power generation and transmission facilities, and power's share of multi-purpose costs (the dam, the reservoir, etc.). In addition, Congress vested power customers with the obligation to help repay the capital costs of federal irrigation development deemed too expensive for the federal irrigation districts to repay. This responsibility for repaying a share of irrigation investment in the region is commonly called "aid to irrigation."

What all that means is that the 300 plus Pick-Sloan power customers – rural electric cooperatives, municipal electric utilities, public power districts, federal and state agencies and Native American tribes – are responsible for not only repaying roughly \$2.5 billion in power investment, but also another \$726 million in aid-to irrigation. To date, Pick-Sloan power customers have repaid almost \$1.2 billion of the \$3.2 billion federal investment in power and aid to irrigation.

Also, if a firm power customer is not directly connected to the federal transmission system, the additional transmission service costs to deliver that federal power are paid for by that customer.

Under the legislation before you, the federal government would be responsible for paying the transmission costs beyond the federal transmission system incurred by these non-federal irrigation projects. No other firm power customer in the Pick-Sloan region receives this benefit. No other non-federal irrigation project receives this benefit. When I say the federal government would be responsible for paying these wheeling costs, what I am really saying is that Pick-Sloan firm power customers will be paying for these costs through their power rates.

Pick-Sloan Missouri Basin Program irrigation projects – federal irrigation projects pay a rate for power subsidized by other firm power customers. Until 1999, the costs of wheeling the power over non-federal lines to federal irrigation districts were borne by the irrigation districts.

In 1999, without hearing or public process, the Bureau of Reclamation determined that for federal irrigation projects in Pick-Sloan, transmission costs beyond the connection to the federal system would be included as obligations of power users to support irrigation in the river basin. Although Mid-West objected to the Bureau's determination at the time and still objects to applying aid-to-irrigation to water users' operation and maintenance financial obligations, that discussion is for another time.

The bill before you would transfer the irrigation district into non-federal ownership, but permit the continuation of benefits – payment of wheeling costs only available to Pick-Sloan federal irrigation projects.

Mid-West cannot support a privatization effort that results in a creature neither fish nor fowl. Responsibilities to the Bureau of Reclamation relating to federal irrigation development travel with the benefits of a subsidized federal power supply. One goes with the other. To unencumber an irrigation project from its responsibilities to the federal government while retaining the special treatment of federal irrigation projects with respect to power supply costs seems to be an attempt to eat one's cake and have it too.

Even though non-federal irrigators in the Missouri River basin receive Pick-Sloan power as part of the power resource of their rural electric cooperatives, there are many non-federal irrigation projects seeking direct allocations of Pick-Sloan power. If this legislation is enacted and permits a non-federal irrigation district to receive benefits – payment of transmission costs beyond the federal transmission system – heretofore only provided to Pick-Sloan federal reclamation projects, the non-federal irrigation projects in the region are sure to add this to their efforts. It is difficult to see how Congress will be able to stanch the demand for special treatment of all non-federal irrigators. Every year will bring to Congress not one Lower Yellowstone but scores of Lower Yellowstones.

The low cost power provided through the Pick-Sloan Missouri Basin Program is the economic life-blood of the region. Power users are not simply an open checkbook for private entities. Transmission service costs

must be paid by everyone, including irrigators, and not shifted to other users. It is unreasonable to expect power customers to accept this kind of inequitable cost shifting. Pick-Sloan power rates are already increasing. By the end of this calendar year, power users will have seen a 15.6% increase in the firm power rate. Next year, we are expecting another rate increase, perhaps another 10%.

These costs are being added to a shrinking Pick-Sloan power resource. In 1995, Mid-West supported a proposal by the Western Area Power Administration to establish a Resource Pool to provide allocations of Pick-Sloan power to Native American tribes in the river basin and eligible new preference customers. To accomplish that, Western's existing preference customers gave up 4% of their Pick-Sloan power allocations. Today, we are anticipating a smaller withdrawal to develop a Resource Pool for eligible preference entities. If the wrangling over the Corps of Engineers' Master Manual ever ends, Pick-Sloan power customers may see their allocations reduced yet again to reflect the new hydrology of the river.

Mid-West supports the continued development of federal irrigation projects under the Pick-Sloan Missouri Basin Program. Mid-West supports privatization of federal reclamation projects that follow the power provisions of the Middle Loup transfer. Mid-West cannot support the power supply provisions in S. 900/H.R. 2257. The National Rural Electric Cooperative Association also opposes the power supply provisions in this legislation. A copy of their resolution is attached.